



United States Attorney  
Southern District of New York

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The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

May 21, 2020

**VIA ECF**

The Honorable Mary Kay Vyskocil  
United States District Court  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street  
New York, New York 10007

**Re:     *United States v. Navarro et al., 20 Cr. 160 (MKV)***

Dear Judge Vyskocil:

The Government writes regarding defendant Seth Fishman's Motion for a Bill of Particulars (the "Motion"). (*See* ECF No. 202). As this Court is aware, the Government is still in the process of producing Rule 16 discovery, (*see* Tr. 66:13-22),<sup>1</sup> and, without objection from the defendants in this action, the Court indicated that it would order a briefing schedule for pretrial motions at a future conference, (*see* Tr. 73:14-20 ("[W]e will have a further conference and at that conference we will set a schedule for motions and a trial date."')). Insofar as no briefing schedule has been set, and insofar as motions for bills of particular are regularly judged against the backdrop of the discovery provided to the defense, the Motion appears to be prematurely filed. *See United States v. Bortnovsky*, 820 F.2d 572, 574 (2d Cir. 1987) ("Generally, if the information sought by defendant is provided in the indictment or in some acceptable alternate form, no bill of particulars is required."); *see also id.* (citing *United States v. Society of Independent Gasoline Marketers*, 624 F.2d 461, 466 (4th Cir. 1979) (no bill of particulars required in light of extensive disclosure of documents and testimony)).

[Continued]

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<sup>1</sup> "Tr." refers to the transcript of the parties' arraignment and initial conference, held on April 2, 2020 via teleconference.

Consequently, the Government respectfully requests that the Court hold the Motion in abeyance or dismiss the Motion without prejudice to refile once this Court has entered a briefing schedule in this matter and once discovery is substantially complete.<sup>2</sup> Alternatively, should the Court wish to resolve the Motion on the merits, the Government respectfully requests two weeks to file a response.

Respectfully submitted,

GEOFFREY S. BERMAN  
United States Attorney

by: /s/ Sarah Mortazavi  
Sarah Mortazavi  
Andrew Adams  
Benet Kearney  
Assistant United States Attorneys  
(212) 637-2520 / 2340 / 2260

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<sup>2</sup> The Government notes that it has, in fact, already produced certain materials that would seem to answer many of the questions posed by counsel for Seth Fishman in the Motion. That material was made available via the USAFx platform on or about April 2, 16, and 27, 2020, and the Government informed counsel for Fishman of the same.